

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ERVIN MIDDLETON,

Plaintiff(s),

vs.

BANK OF AMERICA, N.A., et al.,

Defendant(s).

Case No. 2:15-cv-01867-APG-NJK

**REPORT AND  
RECOMMENDATION**

Plaintiff is proceeding in this action *pro se*. Because the Court granted Plaintiff's request to proceed *in forma pauperis*, the Court screened the complaint pursuant to 28 U.S.C. § 1915(e). Docket No. 3. The Court found that Plaintiff's complaint was deficient in several ways. *Id.* at 2. The Court granted Plaintiff leave to amend the complaint, requiring that an amended complaint be filed no later than November 30, 2015. *Id.* at 3. The Court indicated that "[f]ailure to comply with this Order will result in the recommended dismissal of this case, without prejudice." *Id.* To date, the Court has not received an amended complaint or any request to extend the deadline for filing one.

Accordingly, **IT IS THE RECOMMENDATION** of the undersigned United States Magistrate Judge that this case be **DISMISSED** without prejudice.

IT IS SO ORDERED.

DATED: December 4, 2015

  
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NANCY J. KOPPE  
United States Magistrate Judge

**NOTICE**

Pursuant to Local Rule IB 3-2, any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).